

The 21st September 1994

No. 14/13/87-6Lab./219.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management M/S H.A.U., Bawal *versus* Balwant Singh

IN THE COURT OF MRS. NIRMAL YADAV, PRESIDING OFFICER,  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON.

Reference No. 344 of 1989.

*between*

SHRI BALWANT SINGH C/O SHRI SHARDHA NAND, GENERAL SECRETARY, AITUC OFFICE,  
214/4 MARLA, GURGAON

*and*

THE MANAGEMENT OF HARYANA AGRICULTURE UNIVERSITY, BAWAL, DISTRICT  
MOHINDERGARH

*Present :*

Shri Shardha Nand, for the workman.

Shri M.P. Gupta, for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 (in short "the Act"), the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court, for adjudication,—*vide* Haryana Government, Labour Department Endst. number 38527—32, dated 6th September, 1989:—

Whether termination of services of Shri Balwant Singh is legal and justified? If not, to what relief is he entitled?

2. The facts according to petitioner's claim statement are that he was appointed as Helper with the respondent-management with effect from 1st January, 1988 at the Salary of Rs. 600 p.m. It is stated that his services were illegally terminated by the management with effect from 22nd March, 1989 in violation of the principles of natural justice and mandatory provisions of the Industrial Disputes Act.

3. Claim of the petitioner is contested by the management stating that petitioner was engaged as unskilled casual labour in the month of January, 1988 for a specific period and for specific work in the research programme. Petitioner absented from work of his own accord. Thereafter, he was engaged afresh with effect from 5th January, 1989 and thereafter he absented himself from 22nd March, 1989.

4. In view of the pleadings of the parties, following issues were framed on 13th July, 1990:—

(1) Whether termination of services of Shri Balwant Singh is legal and justified? If not, to what relief is he entitled?

(2) Relief.

5. I have heard learned authorised representatives of the parties. My findings on the issues framed are as under:—

6. In order to prove the above mentioned issues, management produced Brijvir Singh Farm Manager, who stated that management had received demand notice Ex. M1 from the workman and reply to the said demand notice Ex. W2 was submitted before the Conciliation Officer. Witness produced a chart of attendance of the petitioner prepared from the attendance register Ex. M3 and stated that petitioner had not completed 240 days service in the year preceding the date of his termination. It is stated that petitioner was a casual Labourer and his services were engaged as and when required. It is stated that petitioner absented from duty with effect from 22nd March, 1989 and that he did not work in the month of December, 1988. It is stated that no letter or intimation is sent to the casual labour if they absent from duty. When cross-examined, witness stated that appointment letters are not issued to casual labourers. Attendance cards are not issued to them. He denied the suggestion that petitioner had continuously worked with effect from 1st January, 1988 to 22nd March, 1989.

7. On the other and, workman appeared as WW1 and stated that he was employed with the respondent with effect from 1st January, 1988 as a Helper. Management did not issue any appointment letter. He further stated that he continuously worked with the management with effect from 1st January, 1988 to

22nd March, 1989 without any break. According to petitioner, he worked in 2 or 3 departments such as Agronomy, Horticulture Farm and some time he also worked as Security Guard. He further stated that management did not issued any attendance card, wage slip also. According to petitioner, management did not give any notice or pay in lieu thereof, nor retrenchment compensation was paid to him. In cross-examination, witness stated that he did not remain absent except on holidays or when he was on leave due to sickness. It is stated that there used to be difference in attendance marked by the management and that he had made complaint to the Manager of the Farm also, but he did not report to the labour authorities. He denied the suggestion that in the month of December 1988 petitioner did not report for duty. He denied the suggestion that he absented from duty with effect from 22nd March, 1989.

8. In this case, it has come in the evidence that petitioner had joined the management in the month of January 1988. Petitioner stated that his services were terminated with effect from 22nd March, 1989, whereas, management stated that petitioner himself absented from duty with effect from 22nd March, 1989, therefore, it is evidence that date of termination is 22nd March, 1989. Chart Ex. M3 clearly shows that petitioner had completed more than 240 days in the year preceding date of his termination. More-over, management did not produce attendance register to substantiate their plea that petitioner had himself absented from duty. Management also failed to produce any correspondence sent to the petitioner regarding his absence from duty. Even if, petitioner was a casual labour, management was duty bound to comply with the provisions of Section 25F of the said Act at the time of termination of his service. In these circumstances, it is held that termination of services of the petitioner was not legal and justified. Consequently, petitioner is entitled to reinstatement with continuity of service and full back wages.

NIRMAL YADAV,

Presiding Officer,

Industrial Tribunal-cum-Labour Court,  
Gurgaon.

The 10th May, 1994.

Endst. No. 807 08, Dated the 31st, May, 1994.

A copy is forwarded to :-

(1) The Labour Commissioner, Haryana, Chandigarh.

(2) The Labour Officer, Rewari.

NIRMAL YADAV,

Presiding Officer,

Industrial Tribunal-cum-Labour Court,  
Gurgaon.

No. 14 13 87 6-Lzb./220. -In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following awards of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s H.A.U., Bawal *Versus* Khub Ram.

IN THE COURT OF MRS. NIRMAL YADAV, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON.

Reference No. 180 of 1990

SHRI KHUB RAM S/O SHRI RAM SINGH C/O SHRI SHARDHA NAND, GENERAL SECRETARY,  
AITUC OFFICE 214/4, MARLA GURGAON

and

THE MANAGEMENT OF HARYANA AGRICULTURE UNIVERSITY, BAWAL. DISTT.  
MAHENDERGARH

Present :

Shri Shudha Nand for the workman

Shri M. P. Gupta for the management.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (in short "the Act"), the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court, for adjudication,—vide Haryana Govt. Labour Deptt. Endorsement No. 13881-86, dated 29th March, 1990:

Whether the termination of services of Shri Khub Ram is just and legal? If not, to what relief is he entitled?

2. The facts according to the petitioner are that he was engaged as Beldar at the salary of Rs. 800/- p.m. with the respondent management since 1973. However, his services were terminated by the management w.e.f. 16th October, 1989. He had continuously worked with the respondent management from the date of his appointment till the date of termination. Management did not comply with the mandatory provisions of Section 25F of the I.D. Act and illegally terminated his service.

3. Management controverted the claim of the petitioner. It is stated that workman was engaged on casual basis from time to time as per specific programme of the University. It is denied that he was appointed as Beldar and was paid wages at the rate of Rs. 800/- p.m. According to management petitioner worked for 20 days only in the year 1989. Thereafter, he himself did not report for duty.

4. In view of the pleadings of the parties, following issue was framed by me on 11th October, 1991 :—

"Whether the termination of services of Shri Khub Ram is just and legal? If not, to what relief is he entitled?"

5. I have heard learned authorised representatives of the parties. My findings on the issue framed are as under :—

6. In order to prove their case, management produced Shri R. K. Thareja as MW 1. Witness produced muster rolls for the period commencing from the year 1980 to 1990. Witness produced Ex. M1 details of the work done by the petitioner. Witness further stated that petitioner was engaged on casual basis as and when required during the season of sowing and harvesting. Workers themselves leave the job when work is not available with the respondent. When cross examined witness stated that he could not say if petitioner was working since 1st April, 1973. However, he admitted that Dr. Gulyani was working with the respondent in the year 1973. Witness expressed his inability to identify the signature of Shri Gulyani on document Ex. W1. Witness stated that he had not brought muster rolls for the year 1973 to 1980. He admitted that no appointment letter, wage slip or attendance card is given to the casual labour. According to witness, work with the management is not available after sowing and harvesting season. He denied the suggestion that petitioner had continuously worked with the respondent management from 1st April, 1973 to 16th October, 1989. He denied the suggestion that management had terminated petitioner's service. According to him, workman himself did not report for work in the month of October, 1989.

7. On the other hand, workman appeared as WW 1 and reiterated his claim. According to petitioner, he had continuously worked with the management from 1st May, 1973 to 15th October, 1989. According to workman, there are 10 or 12 schemes in the respondent management and he had worked in six or seven schemes. The only proof regarding employment with him is certificate Ex. W1. According to which, he was employed with the management in the year 1973.

8. In the present case, management has produced details Ex. M1 regarding working days of the petitioner. A perusal of Ex. M1 shows that petitioner had been working with the management since 1980. He had almost worked in each and every month upto the year 1987. However, in the year 1989, it is shown that he had worked only for 28 days. The trend of the attendance shown in Ex. M1 does not prove that management was having seasonal work. In the year 1985 and 1986 petitioner had worked in all the twelve months. In the year 1987, attendance is not shown in the months of January and February only. In the year 1988, petitioner is shown to be present from January to August. Therefore, it cannot be held that petitioner was engaged for seasonal work only. According to petitioner, he was engaged in the year 1973 as is proved from certificate Ex. W1. Management did not produce muster rolls for the period commencing from 1973 to 1979, as such, an adverse inference is to be drawn against the management, because petitioner categorically stated that he had continuously worked from the year 1973 to 1989. Management has given details only for the period commencing from the year 1982 to 1989. Testimony of the petitioner and document Ex. W1 and the failure of the management to produce muster rolls for the period commencing from 1973 to 1989. I am of the view that petitioner was engaged with the management in the month of April, 1973 and he continuously worked with the management upto the year 1989. The plea of the management that petitioner himself left the job cannot be accepted as an employee would not leave his job without any reason as he was working with the management for almost 16 years. It is evident from the evidence on record that there are several projects, schemes with the respondent management and attendance of each scheme used to be marked in separate muster rolls. It appears that management has not produced all the relevant records regarding the employment of the petitioner. Petitioner categorically stated that no appointment letter, attendance card, wage slip or any other document was given by the

management to him during the period of employment. From these circumstances, I am of the view that management has adopted unfair labour practice and illegally terminated petitioner's service without complying with the mandatory provisions of the I.D. Act, 1947. Consequently, petitioner is entitled to reinstatement with continuity of service and full back wages. Reference is answered and returned accordingly with no order as to costs.

The 11th April, 1994

NIRMAL YADAV,  
Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Gurgaon.

Endorsement No. 584-85, dated 29th April, 1994.

A copy is forwarded to :—

1. The Labour Commissioner, Haryana, Chandigarh.
2. The Labour Officer, Rewari.

NIRMAL YADAV,  
Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Gurgaon.

**No. 14/13/87-6 Lab./22.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following awards of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of Xen., PWD, B. & R., Narnaul *versus* Ram Niwas.

IN THE COURT OF MRS. NIRMAL YADAV, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON

Reference No. 1 of 1993

*between*

SHRI RAM NIWAS, S/O SHRI BIRBAL, VILLAGE DHANKOT, TEHSIL NARNAUL,  
DISTT. MOHINDERGARH .. Workman

*and*

THE XEN., P.W.D., B. & R., NARNAUL (2) SUB-DIVISIONAL ENGINEER, MAIN-  
TENANCE SUB-DIVISION P. W. D. (B. & R.), NARNAUL .. Management

*Present :*

Shri A. S. Yadav for the workman.

None, for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court, for adjudication,—*vide* Haryana Govt. Endorsement No. 560—65, dated 4th January, 1993:—

Whether termination of services of Shri Ram Niwas is legal and justified ? If not, to what relief is he entitled ?

2. The facts according to petitioner's claim statement are that he was appointed as Beldar in the month of February, 1988 with the respondent-management. However, his services were terminated w.e.f. 31st May, 1992 in violation of the mandatory provisions of Section 25F of the I.D. Act.

3. Notice of the reference was sent to the management, but none appeared on behalf of the management, therefore, management was proceeded against *ex parte* on 11th June, 1993.

4. In his *ex parte* evidence, workman reiterated his claim. He categorically stated that he worked with the respondent as Beldar w.e.f. February 1988 to 30th May, 1992. Management did not give any notice

or pay in lieu thereof, nor re-employment compensation was paid to him. According to petitioner, he was getting Rs. 1,150 p.m. as salary at the time of termination of his service. Petitioner submitted copy of ration card, which was issued by the SDE under special scheme.

5. From the un rebutted testimony of the workman, it is well proved that petitioner worked with the respondent-management w.e.f. February, 1988 to 30th May, 1992 without any break. Management did not give any notice or pay in lieu thereof nor re-employment compensation was paid to him. Consequently, termination of services of the petitioner was illegal and not justified. Petitioner is entitled to reinstatement with continuity of service and full back wages.

The 25th May, 1994.

NIRMAL YADAV,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Gurgaon.

Endorsement No. 837-38, dated the 31st May, 1994.

A copy is forwarded to :—

1. The Labour Commissioner, Haryana, Chandigarh.
2. The Labour Officer, Rewari.

NIRMAL YADAV,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Gurgaon.

**No. 14/13/87-6 Lab./222.** In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following awards of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of Xen, Jawahar Lal Nehru Canal, Rewari *versus* Sh. Bhim Singh.

IN THE COURT OF MRS. NIRMAL YADAV, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON

Application No. 12 of 1988

*between*

SHRI BHIM SINGH

.. Applicant

*and*

(1) XEN, JAWAHAR LAL NEHRU CANAL, DIVISION NO. 2, REWARI, MOHINDERGARH  
(2) S.D.O., JAWAHAR LAL NEHRU CANAL, SUB-DIVISION NO. 7, REWARI,  
MOHINDERGARH

.. Management

*Present :*

Shri Mahavir Tyagi, for the workman.

Shri Rajinder Singh ADA, for the managements.

ORDER

1. This is an application under Section 33-C(2) of the Industrial Disputes Act, 1947 (in short "the Act"), for computing the benefits of annual increments for the year 1986, which, he is entitled to receive from the respondent-management. It is claimed that petitioner is entitled to annual increment at Rs. 13/-p.m. for the year 1986-87 amounting to Rs. 390:—

2. Claim of the applicant is contested by the management stating that petitioner's appointment was not proper, therefore, he is not entitled to any increment. It is further admitted that he was appointed as Beldar w.e.f. 1st July, 1984 in place of his brother, who expired during service.

3. In his rejoinder, petitioner reiterated his claim and controverted the pleas taken in the written statement. It is stated that is appointment was legally made. In view of the pleadings of the parties following issue was framed on 3rd November, 1989 :—

(1) Whether the applicant is entitled for the calculated amount ?

4. I have heard learned A. Rs. of the parties. My findings on the issue framed are as under :—

5. In order to prove his case, workman appeared as WW 1, who stated that he was appointed with the management in the year 1984. After his appointment first increment was given in the month of August, 1985. However, increment for the period commencing from July, 1986 to December, 1987 was not paid to him. It is stated that he was entitled to be paid increment @ Rs. 13 p. m. in the year 1986 and Rs. 26/- p.m. in the year 1987 and as such, in total he is entitled to Rs. 390/-. When cross examined, workman stated that he is working with the respondent-management since 1st January, 1984 and that his appointment was made on compassionate grounds after the death of his brother. He further stated that management did not issue any appointment letter to him. However, he joined duty on the direction of S.D.O. and Xen. He denied the suggestion that his appointment was made illegally. According to petitioner, management is paying increment to Shri Subj Singh, Chowkidar of Sub-Division No. 2, who was also not recruited through Employment Exchange.

6. On the other hand, management produced Shri G.S. Garg, S.D.O., who stated that petitioner was appointed after the death of his brother on 1st July, 1984 as Beldar by S.D.O., Jawahar Lal Nehru Canal, Sub-Division No. 4, Rewari. It is stated that appointing authority of the petitioner is Xen, but SDO had not taken permission from the Xen. He further stated that appointment in the department is made through Employment Exchange and as such his appointment is illegal. It is further stated that his case of pay fixation was not approved by the Xen. When cross examined, witness admitted that petitioner was paid annual increment for the year 1985-1986 and entry to this effect has been made in the service book of the petitioner. He further admitted that there is no order for the stoppage of increment of the petitioner. He further admitted that petitioner was appointed in the pay scale of Rs. 300 -5 -360/8 -400/10 -450. He further stated that since Xen has objected for pay fixation, therefore, increment cannot be given to the petitioner.

7. A.R. of the workman argued that it is admitted case of the management that petitioner was appointed after the death of his brother on compassionate ground. It is also admitted that petitioner was appointed in the pay scale of Rs. 300 -5 -360/8 -400/10 -450. It is also admitted that annual increment for the year 1985-86 was given to the petitioner. However, increment was not given for the year 1986-87. But there is no order for stoppage of increment by the appropriate authority. On the other hand, learned A.R. of the management argued that increment is not given to the petitioner as his appointment was not through Employment Exchange.

8. In this case, it is admitted by the management that petitioner was employed on compassionate ground after the death of his brother in the regular pay scale of Rs. 300 -5 -360/8 -400/10 -450. It is also admitted by MW1 Shri G. S. Garg that petitioner was given increment in the year 1985-86, however, no order for stoppage of increment has been issued by any authority. Admittedly, petitioner is working with the respondent since 1984. It is surprising that management has denied increments to the employee, who has been employed in the regular pay scale. There is nothing on record to prove that petitioner is a casual labour, rather, it is admitted by Shri G. S. Garg that he was employed in regular pay scale. In these circumstances, management has illegally stopped payment of annual increment, which, petitioner is entitled to get. In these circumstances, it is ordered that petitioner be paid annual increment from July, 1986 to December, 1987, which, on computation comes to Rs. 390. It is ordered that respondent shall pay this amount to the petitioner.

The 4th May, 1994.

NIRMAL YADAV,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Gurgaon.

Endorsement No. 817-18, dated the 31st May, 1994.

A copy is forwarded to the following :—

1. Labour Commissioner, Haryana, Chandigarh.
2. Labour Officer, Rewari.

NIRMAL YADAV,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Gurgaon.